IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7670 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VINODKUMAR BACHUBHAI NAIK

Versus

STATE OF GUJARAT

Appearance:

MR ND NANAVATI for Petitioners

M/S PATEL ADVOCATES for Respondent No. 1

RULE SERVED for Respondent No. 2, 3, 4, 5

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 10/02/2000

ORAL JUDGEMENT

1. The present petition has been filed by six petitioners wherein the petitioners seek a mandamus against the termination of their services and employment as daily wagers, and a further mandamus to treat the

petitioners as permanent government servants etc.

2. By an interim order passed by an earlier Bench in this matter dated 9th July 1991, it appears that the petitioners' services came to an end on 30th October 1990 on account of the fact that the status quo order obtained by the petitioners in the present petition by order dated 29th October 1990 was not served upon the concerned respondents in time before the order of termination came to be passed. The aforesaid order of 9th July 1991 also records subsequent developments as disclosed in the affidavit in reply of the respondents, explaining why it is not possible to re-employ the petitioners even as daily wagers. Thus, for the reasons stated in the aforesaid interim order, the earlier order of status quo was vacated, and the respondents were merely directed to offer work to the petitioners according to their seniority, if that becomes available in the Unit in which they were working.

3. In the context of this situation, learned counsel for the petitioners has placed on record and drawn my attention to a Government Resolution dated 17th October 1988, which deals with the question and manner of absorption of daily wagers into the cadre of regular employees of the State Government in its various Departments. Whether the present petitioners would fit into the framework of the aforesaid G.R., and whether the present petitioners would qualify for being absorbed as regular employees, is a question of investigating into the facts of the case, which is not the province or within the scope of the present petition under Article 226. In this context, therefore, learned counsel for the petitioner confines the prayer to a direction that the concerned respondent will consider the cases of the present petitioners in the light of the said G.R. and take an appropriate decision within a specific time-frame. It is accordingly so directed. The respondents shall take the appropriate decision within six months of receiving a representation in this regard from the petitioners, provided such representation is made latest by 29th February 2000.

4. In the light of the aforesaid directions, no further relief is sought by the learned counsel for the petitioners. This petition is accordingly disposed of and rule is discharged with no orders as to costs.

Direct service is permitted.

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